

**MINUTES OF THE MEETING
OF THE
BOARD OF MANAGERS
OF THE
NINE MILE CREEK WATERSHED DISTRICT**

WEDNESDAY, MAY 19, 2021

I. Call to Order

President Robert Cutshall called the regular meeting of the Board of Managers of the Nine Mile Creek Watershed District to order at 7:00 p.m., Wednesday, May 19, 2021. The meeting was conducted by web-based video conference, pursuant to Minnesota Statutes section 13D.021, after the president determined that because of the COVID-19 pandemic, it was not prudent for the Board of Managers, or any committee thereof, to meet in person.

Managers Present: Grace Butler, Bob Cutshall, Erin Hunker, Peggy Kvam, and Larry Olson

Advisors Present: Janna Kieffer and Bob Obermeyer (Barr Engineering), and Michael Welch (Smith Partners)

Staff Present: Randy Anhorn, Lizzy Boor, Lauren Foley, Erica Sniegowski, and Gael Zembal

Others Present: Sarah Schweiger, Phil Olson, and Chris Long (City of Minnetonka), Matt Blazer (Bolton & Menk), Brian Kirk (City of Minnetonka Council Member), Karen Anderson, Carrie Bowman, Marvin Bunnell, Marc Gurstel, Robert Jaffee, Cal and Linda Johnson, Kimberly Oleson, Maressia Twele, Carrie Weber, Beth, Michael Rabin, Rick, and Janet

II. Approval of Regular Meeting Agenda

Administrator Anhorn requested moving item 9a - Shady Oak Lake Outlet – Pre-Permit Application Presentation – to immediately follow the public open forum.

Manager Olson moved, seconded by Manager Butler to approve the meeting agenda as modified. On a roll call vote, the motion was approved 5-0.

III. Reading and Approval of Minutes

a. Draft Minutes of the April 21, 2021, Regular Board Meeting

Manager Butler clarified that the District hasn't approved any aeration plan for Normandale Lake and that aeration is a consideration within the long-term plan.

Manager Kvam moved, seconded by Manager Olson to approve the minutes of the District's April 21, 2021, workshop as amended. On a roll call vote, the motion was approved 5-0.

b. Draft Minutes of the May 6, 2021, Workshop

Manager Butler moved, seconded by Manager Olson to approve the minutes of the District's May 6, 2021, workshop as presented. On a roll call vote, the motion was approved 5-0.

IV. Public Open Forum

No items were raised in the public open forum.

IX. Unfinished Business

a. Shady Oak Lake Outlet – Pre-Permit Application Presentation

Administrator Anhorn explained the City of Minnetonka will be presenting information about the planned replacement and upgrade of the outlet on Shady Oak Lake. He said the project will be before the board at a future meeting for a permit determination, and the public will have an opportunity to provide comments at that time.

Ms. Sarah Schweiger, City of Minnetonka Water Resources Engineer, introduced herself and provided project background, explaining there have been rising water levels in Shady Oak Lake, which is a landlocked basin without an existing outlet or overflow to provide flood protection.

Ms. Schweiger said the proposed project will provide flood protection to homes, a public beach, trail, and the natural environment around Shady Oak Lake and will provide flood protection for properties upstream. She presented historical rainfall and lake-level data and talked about the 2019 pumping route, noting the City of Minnetonka doesn't view pumping as a long-term solution. Ms.

Schweiger stated the city's goal is to install outlets to landlocked basins. She described the outlet options the city considered and provided details about the option the city selected. Ms. Schweiger said this option results in only minimal tree impacts where the outlet structure will be constructed and where it discharges to the creek. She talked about project permits and the project's proposed improvements, including the managed outlet with real-time water-level monitors. Ms. Schweiger talked about the conditions under which the outlet would be opened to allow water to flow out of the lake.

Ms. Schweiger reviewed the timeline and explained the project is now in the final design and permitting phase. She presented resident feedback collected in two virtual public information meetings. Ms. Schweiger responded to questions about the location of the culvert, the direction it will convey water, and why the alternate design in which water was conveyed to the pond north of the proposed outlet was not selected. Engineer Kieffer responded to a question about the timing of the city's proposed project, indicating that the timing of the proposed project is not problematic in relation to phase 2 of the District's Atlas-14 flood-risk and resiliency study.

Manager Butler said she would like the District engineer to investigate the option of storing water in some of Minnetoga Lake's wetlands before sending the water downstream. Ms. Schweiger talked about the challenges of getting overflow from Shady Oak Lake to Minnetoga Lake, explaining it would mean significant impact to the trees and maybe a wetland. Manager Kvam asked how the wetlands are connected north of Jorrisen Road and if the culverts could be doubled up when the roads are torn up. Ms. Schweiger said this could be looked at.

Ms. Karen Anderson said a major concern of the Butternut Circle residents is flooding. She said the project includes removing debris from the creek, but she sees it as problematic if the debris removal doesn't happen until winter. She said she understands that the city will look at whether sediment should be removed from the creek. Ms. Anderson said these two elements are a timing issue, and the debris and sediment should be removed before the project is done and the outlet releases water. Ms. Anderson asked for more details about the real-time water-level monitoring. Ms. Schweiger said brush removal is part of the project, and the timing isn't precisely planned out. She said the challenge will be getting equipment in place and there will be a discussion with the contractor about whether the wetland needs to be frozen to accomplish that.

V. **Consent Agenda**

- a. **Administratively Approved Permits**
- b. **Permit Inspection Report**
- c. **Staff Reports**
 - i. **Permit and Water Resources Coordinator**
 - ii. **Education and Outreach Coordinator**
 - iii. **Program and Projects Manager**
 - iv. **Engineer's Report**

The Board accepted the consent agenda by unanimous consensus.

VI. **Hearing of Permit Applications**

No permit applications presented.

VII. **Treasurer's Report**

Manager Butler moved, seconded by Manager Kvam to accept the treasurer's report and pay the bills. On a roll call vote, the motion was approved 5-0.

VIII. **Administrator's Report**

Administrator Anhorn noted his report is in the meeting packet. He announced the Board will have a June 3 workshop at 5:30 p.m., which will include a presentation about the Braemar Golf Course past partnership project and a status update on the Rosland Park stormwater filtration project. He noted the Board will not have a July workshop. Administrator Anhorn said the District is holding a community meeting kickoff for the Arrowhead and Indianhead Lake use-attainability analysis at 6 p.m. on Tuesday, May 25. He noted that he is working with legal counsel on returning to in-person meetings given the relaxing of COVID-19 restrictions for purposes of seeking direction from the board in June.

IX. **Unfinished Business**

- b. **Upcoming RFP/RFQs: South Fork of Nine Mile Creek Restoration Project RFP and Wetland Restoration Protection Plan RFP**

Administrator Anhorn reported on the status of the draft requests for proposals for protection of high-quality wetlands and for the south fork of Nine Mile Creek, indicating that release of the request for qualifications and proposals for wetlands will be delayed to stagger the efforts associated with reviewing and

selecting consultants for the two projects and because staff is not yet confident that the wetlands RFP captures the board's intent and direction accurately enough. Administrator Anhorn asked the Board to authorize the release of the RFP for the south fork of Nine Mile Creek Restoration Project for problem identification and feasibility study/preliminary engineering. He said if the Board authorizes tonight the release of the RFP, the District will accept proposals until June 18, The anticipated schedule would have the board ordering a project mid to late 2022.

Attorney Welch noted that board should specify whether the administrator should distribute the RFP to firms outside the NMCWD engineering pool. After discussion among the managers, Administrator Anhorn suggested going outside the pool for the south fork RFP and staying inside the pool for the wetland restoration protection plan RFP.

Manager Hunker moved, seconded by Manager Olson to authorize staff to release the request for proposals for the South Fork of Nine Mile Creek Restoration Project to the District's engineer pool and other qualified firms, and to post the RFP. On a roll call vote, the motion was approved 5-0.

Administrator Anhorn and Engineer Kieffer talked about the RFP for protection of high-quality wetlands. Engineer Kieffer noted this project has a unique scope with a goal to get the District to the next level of information regarding the scope of potential projects and their estimated costs. She explained the desired outcome of this RFP is a high-level cost estimate of potential projects and a prioritization of those projects, but it doesn't include project design. Engineer Kieffer said the RFP focuses on four wetlands, reduced from the eight previously discussed, in accordance with Manager Butler's previous recommendation to be more focused.

Administrator Anhorn asked if the managers are comfortable with the RFP as it is drafted or if they want the RFP to include the next step. Manager Butler said she would like the RFP to include identification of one or multiple projects that the Board could pursue with a more detailed feasibility analysis. Other managers agreed. Administrator Anhorn said staff will take this feedback and bring this item back to the Board.

X. New Business

a. Draft Groundwater Conservation Cost-Share Guidelines

Program and Project Manager Sniegowski explained the District's approach this year is to efficiently and effectively use the \$100,000 in funds dedicated to the groundwater conservation cost-share projects to supplement the watershed's cities' existing groundwater conservation programming or to initiate new programs. She explained the six cities in the watershed will be the only eligible applicants this year, and each city could receive more than one grant this year but the cap of \$25,000 per

grant would remain. She proposed the Board streamline the process just for this year by delegating to Administrator Anhorn the authority to approve the grants up to \$25,000 and direct staff to bring updates to the Board about the approved grants.

Elizabeth Boor provided an update on outreach to the cities. Manager Butler brought up erosion and possible runoff pollution issues related to pool draining in Edina. She asked if there could be a tie-in somehow, even if not this year. She noted that cities' timely reporting on has been an issue for the program in the past. She asked if language could be added to the reporting requirements that failure to submit timely reporting may impede reimbursement. Program and Project Manager Sniegowski agreed and said the cost-share agreement includes language to this point.

Manager Butler moved, seconded by Manager Hunker to approve the program criteria outlined by Program and Project Manager Sniegowski, and to delegate to the administrator the authority to approve grants and enter into grant agreements on behalf of the NMCWD. On a roll call vote, the motion was approved 5-0.

b. Draft Rule Revisions

Administrator Anhorn said the rules have been in front of the Board several times and have been shared and reviewed with the Technical Advisory Committee. He stated that since the board last saw the draft revisions, staff has clarified the definition of "landlocked basin" to address a TAC comment and refined the treatment-in-lieu provision to require applicants to treat runoff from similar or more intensive surface uses. Administrator Anhorn recommended that the Board authorize staff to release the draft revisions for the 45-day public comment period and schedule a public hearing for the June 16, prior to the regular meeting.

Manager Butler moved, seconded by Manager Olson to authorize release of the draft revisions in clean and show-changes formats for the 45-day public comment period and order a public hearing to take place at 6:45 p.m. on June 16th. On a roll call vote, the motion was approved 5-0.

Permit and Water Resources Coordinator Foley went through the proposed changes to the permit-fee schedule. Administrator Anhorn said these proposed changes will come in front of the Board for approval along with the final revisions to the rules in July.

XI. Attorney's Report

Attorney Welch followed up on the administrator's report, stating that staff will bring more information on provisions applicable to NMCWD operations to the

Board next month to facilitate planning upcoming meetings and office operations. He announced the Smith Partners office is moving, noting the move won't disrupt work.

XII. Managers' Reports

Manager Butler suggested the attorney and engineer edit their Zoom name display to include "attorney" or "engineer" after their names, so the public knows they are working with the District. She commented on the difficulty of finding links to Board packet information on the District's website. Administrator Anhorn said staff will look into it. Manager Butler commented she is turning in her iPad as the District may have a better use for it. Other managers commented about their use of the iPads.

Manager Olson stated a brewery is opening in Bloomington with the name Nine Mile Brewing, which is named after Nine Mile Creek.

Manager Butler commented she is really impressed with the amount of work staff is getting done and thanked them for their work.

XIII. Adjournment

It was moved by Manager Olson, seconded by Manager Hunker, to adjourn the meeting at 9:05 p.m. On a roll call vote, the motion was approved 5-0.

Respectfully Submitted,

Erin Hunker, Secretary